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E.O. 12958, as amended  
August 6, 2007

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Authority <u>1110969005</u>
By <u>JP</u> NARA Date <u>1112</u>

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*NSC/Misc.  
(Seabeds)*

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY  
WASHINGTON

OFFICE OF  
THE DIRECTOR

August 21, 1969

*Secretary for*

Dear Bill:

Here are my thoughts about the latest seabeds treaty development in Geneva, and how I believe we might best go about dealing with it.

1. The USSR appears to have accepted our idea that a seabeds treaty should deal with denuclearization and not demilitarization. There is attached a comparison of the US and USSR positions.

2. This is a substantial move in the direction of our draft and an important development on which we should try to capitalize. This could be the first hard evidence that an era of negotiation was in prospect. Tommy Thompson confirms the significance of the Soviet change of course and hopes that we can act promptly on it.

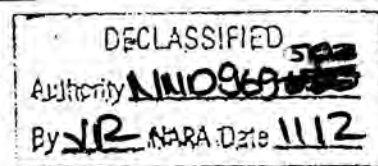
3. Roshchin, the Soviet negotiator in Geneva, in transmitting the Soviet compromise draft made it clear that he was able to do so only on the condition that we would accept a 12-mile narrow band which would be exempted from the operation of the treaty. In doing this Roshchin undoubtedly was aware that most of the other members of the ENDC strongly prefer a 12-mile narrow band to the 3-mile narrow band which the US suggested in its draft treaty tabled at the ENDC on May 22.

The Honorable  
William P. Rogers  
Secretary of State

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4. If we are unable to accept the Soviet offer (which admittedly was made very late during the ENDC session), we may appear to be turning down a proposal which meets the US requirement on the most important aspect of the treaty, denuclearization, rather than demilitarization, over an issue on which the rest of the Committee and most of our allies probably would not support us -- the width of the narrow band. For example, the British informed us last week that they want to retain at least a narrow band around UK shores where military activities are permitted and safeguarded from inspection. From the military point of view the British consider that 12 miles is the minimum for this purpose. There is a general assumption among other delegations in Geneva that the US has proposed the 3-mile narrow band as a negotiating tactic to get the Soviets to abandon their position on complete demilitarization. Thus our rejection of this Soviet basis for compromise might be construed as US reluctance to reach agreement on any seabeds measure at all.

5. In his July 3 message to the ENDC the President said: "I ask the participants in this Committee to join with us in elaborating a measure that is both practical and significant. With good will on all sides and a fair measure of hard work, we may achieve agreement in the course of this session. With each passing day the seabed becomes more important for the security and well-being of all nations. Our goal should be to present a sound seabed arms control measure to the 24th General Assembly of the United Nations."

6. Roshchin said that the USSR would like to negotiate a treaty which could be presented to the ENDC at its present session and be submitted to the UNGA this fall. In view of the Soviet delay in making this proposal, which is difficult to explain but which may be bound up with Soviet consideration of when to start SALT, it will not be easy to meet such a timetable. But it is possible if we move fast.

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7. Earlier an adjournment date of around the end of August was under discussion by the US and Soviet Co-Chairmen. In signalling to us the possibility that they might make a compromise proposal, the Soviets requested that the discussion of the adjournment date be suspended. The Soviets also have suggested to other ENDC delegations that the ENDC remain in session through September. If other delegations become aware that there is prospect that the US and the USSR now have a serious basis for working out a compromise solution on the seabeds treaty, I believe they will be content to remain in session at Geneva for another month. The possibility of presenting a measure to the UNGA which would be a constraint on nuclear powers, and primarily on the superpowers, in the spirit of Article VI of the NPT, will have appeal and will be recognized as an effort by the superpowers to heed Article VI.

8. You will recall that after the NSC meeting on the seabeds treaty in May, the Department of Defense proposed some changes from the draft that we had prepared, e.g.: a 3-mile narrow band, language which would permit so-called "bottom crawlers", and a verification clause that would not amount to verification. In submitting these changes the Department of Defense recognized that they would be put up for bargaining purposes and were not the last word. Attached is a copy of a memorandum from the Secretary of Defense to the President on this score.

9. Our present plan is to send over draft instructions to our delegation in Geneva to DOD before the end of this week. We would favor adopting part of the Soviet offer, including the essential condition of a 12-mile narrow band. Some clarification of the definition of baselines will probably be necessary. We are working on such a draft, together with the interested offices in the Department of State. I would hope that Defense could

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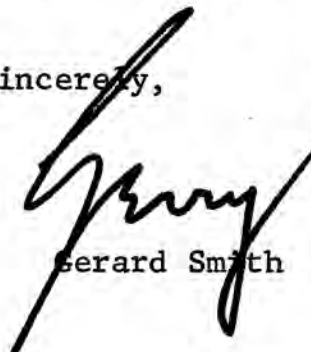
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give its reaction in time to permit something to be submitted to you and the President next week in California. It may then be possible to get word back to Jim Leonard in Geneva about the end of the month.

10. An additional reason for acting promptly is that public knowledge of the Soviet counter-offer will probably develop over the next few days. Congress is likely to become interested shortly after its recess ends.

If this procedure does not suit you, I would appreciate hearing from you.

Sincerely,



Gerard Smith

Attachments:

- Tab A - Comparative Analysis of U.S. and U.S.S.R.  
Draft Texts of Seabed Arms Control Treaty  
and  
Comparative Table of the U.S. and U.S.S.R.  
Draft Texts of Treaty for Seabed Arms Control
- Tab B - Memorandum for the President from the  
Secretary of Defense, dated 1 May 1969

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August 20, 1969

COMPARATIVE ANALYSIS OF  
U.S. and U.S.S.R. DRAFT TEXTS OF  
SEABED ARMS CONTROL TREATY

PREAMBLE

The first paragraph of the U.S.S.R. draft of August 19 follows closely the first U.S. paragraph. The U.S. text was derived from UNGA Res. 2467A (XXIII) expressing recognition of the common interest of mankind in the peaceful use of the seabed.

The second Soviet paragraph reflects their earlier proposal for a complete prohibition of military use of the seabed and expresses willingness to continue negotiations towards that end.

The third Soviet paragraph is identical to the second paragraph of the U.S. text which states that the prevention of a nuclear arms race would serve the interests of maintaining peace and strengthening friendly relations among States.

In the fourth paragraph, the Soviet draft again states that the treaty serves as a step toward a complete ban on all seabed military activities.

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GROUP 1  
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downgrading and



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The Soviet preamble does not pick up the last paragraph in the U.S. draft stating that the treaty will further the "principles and purposes of the Charter of the U.N., in a manner consistent with the principles of international law and without infringing the freedoms of the high seas". This paragraph is based on statements made by U.S. Representatives on August 23, 1968, before the U.N. Ad Hoc Seabed Committee, and on October 29, 1968, before the U.N. First Committee.

#### ARTICLE I - PROHIBITED ACTIVITIES

The Soviet draft Article I represents a substantial change in the earlier Soviet proposal to prohibit all military activities on the seabed. The new Article I would prohibit the emplanting or emplacement on the seabed and ocean floor, and in the subsoil thereof, of objects with nuclear weapons or any other types of weapons of mass destruction. It would also prohibit structures, launching installations or any other facilities designed for storing, testing or using such weapons.

When the text was presented on August 19 Ambassador Roshchin informed the U.S. Representative (Geneva 2978) that the phrase

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"any objects" in paragraph 1 of Article I implied launching installations and other underwater facilities, nuclear mines, various storage facilities and structures designed or capable of being used for storing, testing or using nuclear weapons and other weapons of mass destruction.

Ambassador Roshchin also stated that the word "fixed" in the U.S. draft Article I was not adopted by the U.S.S.R. because it would give the impression of narrowing the treaty's prohibitions excessively and the word "fixed" was not really needed. In response to a U.S. query, Ambassador Roshchin said that submarines should be viewed like other ships and would not violate treaty if anchored to the bottom.

Paragraph 1 of Article I states that the prohibitions would apply beyond a maritime zone as defined in Article II. This formulation is apparently an attempt to remove the ambiguities in the earlier Soviet draft.

In the second paragraph of Article I the Soviets use language based on Article I of the NPT to prohibit assistance in carrying on prohibited activities. The U.S. draft text on this point was drawn from language in the Limited Test Ban Treaty.

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The U.S. text would impose an obligation on each party not to emplace or emplant fixed nuclear weapons or other weapons of mass destruction, or associated fixed launching platforms on, within or beneath the seabed. The restriction would apply only to immovable systems.

ARTICLE II - NARROW COASTAL BAND (U.S.)  
or MARITIME ZONE (U.S.S.R.)

Paragraph 1 of Article II of the Soviet draft prescribes that the maritime zone shall have a width of 12 miles measured seaward from the same baselines as are used to define the limits of the territorial sea of coastal states.

Baselines

The Soviet definition does not clear up the problems arising out of "historic" Soviet claims to certain coastal waters. While it is not clear that in every case such waters are claimed by the Soviets as inland rather than territorial waters, Roshchin responded to a query as to Soviet thinking on this point by saying the "baselines problem would be very difficult to negotiate since Soviets would not be willing open up their internal seas for seabeds treaty."

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Roshchin inquired whether the U.S. proposal would bring Soviet internal seas within the treaty and also subject them to treaty inspection? In a reply to a U.S. query whether Soviets would be willing to provide names of internal seas which they would wish to regard as not being subject to treaty, Roshchin said he would report the question to Moscow but hoped that the matter would not have to be the subject of negotiation.

Paragraph 2 of Article II of the U.S. draft treaty was left blank with an indication that the paragraph was reserved for baselines. When the U.S. treaty text was tabled on May 22, Ambassador Fisher stated that definitions of baselines were necessary for equitable boundaries and balanced obligations in view of existing claims to certain marginal seas (ENDC/PV. 414, p. 16) (The problem is not confined to Soviet claims, but may include also claims made by some U.S. allies (State 117102, 107285, 075159)). The Soviets indicated on August 19 that the U.S. should take into account that the U.S.S.R. is a party to the 1958 Convention on the Territorial Sea but no interpretations of that Convention such as the U.S. called for on May 22 were suggested.

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### WIDTH OF COASTAL ZONE

In presenting the new draft Ambassador Roshchin made it clear that the Soviet offer to confine the treaty prohibitions to weapons of mass destruction was conditional on U.S. acceptance of a 12-mile coastal zone. This promises to be a most difficult matter within the U.S. Government.

### ARTICLE III - VERIFICATION - OBSERVATION

The new Soviet text provides categorically that each Party has the "right to verify" the activities of other treaty Parties on the seabed. If these activities raise doubts under the treaty, the Parties would undertake to consult and cooperate to remove the doubts. The operative paragraph 1 of the U.S. Article III does not mention verification, and it provides that the Parties "shall remain free to observe" activities of other States. This provision is essentially a declaration of existing principles of international law. Paragraph 1 also provides for consultation and cooperation if observation does not eliminate questions. The U.S. text, as a declaration of existing law, does not confine the right of observation to the activities of other treaty Parties.

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Paragraph 2 of U.S. Article III provides that the Article V Review Conference shall consider whether additional "rights or procedures of verification" should be established.

The provision in the Soviet text for a right to "verify" without interference is somewhat fuzzy. Ambassador Roshchin explained in Geneva on August 19 that the net effect of the Soviet text would be the same as the effect of the U.S. text. The right to verify must be exercised without interfering with the activities being verified, or otherwise infringing rights recognized in international law, including freedom of the high seas. It would include overflights, observation from ships, and observation by divers. Entry would not be included since it would interfere with the activity being verified.

The Soviet draft does not include any provision for subsequent review of the treaty.

#### AMENDMENT

Unlike the U.S. draft, the Soviet text would require acceptance of an amendment by nuclear weapon states. According

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to Ambassador Roshchin this is derived from the NPT. Both texts would bind only parties accepting an amendment.

#### WITHDRAWAL

Both the U.S. (VI) and the U.S.S.R. (V) drafts have withdrawal provisions based on the NPT.

#### REVIEW CONFERENCE

Article V of the U.S. draft treaty provides for a review conference to be held in Geneva five years after the treaty's entry into force. This Article, inspired by similar language in the Non-Proliferation Treaty, expressly states that the conference will take into account relevant technological developments. Under the operation of this treaty language, the scope of prohibited activities and of verification procedures could be enlarged.

The Soviets have not accepted the U.S. proposal for a review conference. Ambassador Roshchin stated that not many ENDC members really believed a review conference would achieve more comprehensive prohibitions. Timerbaev stated that the

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addition of review provisions in the NPT had not made the NPT acceptable to those countries that disliked the NPT.

In drafting the review conference provisions, however, the U.S. had in mind not only the possibility of more comprehensive prohibitions but also possibility of arrangements for more intensive verification activities. Contrary to Timerbaev's views, statements have been made at the ENDC indicating that a review conference provision would be attractive to some members. Unlike the NPT, there is no opposition to the seabed arms control treaty, although there is yet no agreement on its full scope.

#### ENTRY INTO FORCE

The Soviet text (paragraph 3 of Article VI) provides that the Treaty shall enter into force after ratification by 22 states, including the depositary Governments. On August 19, the Soviets indicated that the depositary Governments should be the nuclear weapons states, but have not specified these until France has been given a chance to join. The U.S. treaty has no administrative provisions because of FRG objections to

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the "all states" formula again repeated in Soviet paragraph 1  
of Article VI.

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COMPARATIVE TABLE  
OF THE  
U.S. and U.S.S.R. DRAFT TEXTS OF TREATY  
FOR  
SEABED ARMS CONTROL

U.S.S.R. TEXT\*

U.S. TEXT

DRAFT TREATY ON PROHIBITION  
OF THE EMPLACEMENT OF NUCLEAR  
WEAPONS AND OTHER WEAPONS OF  
MASS DESTRUCTION ON THE SEA-BED  
AND THE OCEAN FLOOR AND IN THE  
SUBSOIL THEREOF

DRAFT TREATY PROHIBITING  
THE EMPLACEMENT OF NUCLEAR  
WEAPONS AND OTHER WEAPONS  
OF MASS DESTRUCTION ON THE  
SEABED AND OCEAN FLOOR

The States Parties to this  
Treaty,

The States Parties to this  
Treaty,

Recognizing the common  
interest of mankind in the  
progress of the exploration  
and use of the seabed and the  
ocean floor for peaceful  
purposes,

Recognizing the common  
interest of all mankind in the  
progress of the exploration  
and use of the seabed and  
ocean floor for peaceful pur-  
poses,

Seeking to achieve agree-  
ment on the comprehensive pro-  
hibition of the use for mili-  
tary purposes of the sea-bed  
and the ocean floor

\* Geneva 2976, August 19, 1969

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and the subsoil thereof, and  
determined to continue negoti-  
ations to this end,

Considering that the pre-  
vention of a nuclear arms race  
on the sea-bed and the ocean  
floor serves the interests of  
maintaining world peace, re-  
duces international tensions,  
and strengthens friendly rela-  
tions among States,

Convinced that this Treaty  
constitutes a step towards the  
complete prohibition of mili-  
tary activities on the sea-bed  
and the ocean floor and in the  
subsoil thereof,

Have agreed as follows:

Considering that the pre-  
vention of a nuclear arms race  
on the seabed and ocean floor  
serves the interests of main-  
taining world peace, reduces  
international tensions, and  
strengthens friendly relations  
among States,

Convinced that this Treaty  
will further the principles  
and purposes of the Charter of  
the United Nations, in a  
manner consistent with the  
principles of international  
law and without infringing the  
freedoms of the high seas,

Have Agreed as Follows:

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## ARTICLE I

1. The States Parties to this Treaty undertake not to emplant or emplace on the seabed and the ocean floor and in the subsoil thereof beyond the maritime zone, as defined in Article II, any objects with nuclear weapons or any other types of weapons of mass destruction, as well as structures, launching installations or any other facilities designed for storing, testing or using such weapons.

2. The States Parties to this Treaty undertake not to assist, encourage or induce any State to commit actions prohibited by paragraph 1 of this Article and not to par-

## ARTICLE I

1. Each State Party to this Treaty undertakes not to emplant or emplace fixed nuclear weapons or other weapons of mass destruction or associated fixed launching platforms on, within or beneath the seabed and ocean floor beyond a narrow band, as defined in Article II of this Treaty, adjacent to the coast of any State.

2. Each State Party to the Treaty undertakes to refrain from causing, encouraging, facilitating or in any way participating in the activities prohibited by this Article.

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icipate in any other way in  
such actions.

## ARTICLE II

1. The maritime zone established under Article I shall have the width of 12 nautical miles, and its outer limit shall be measured from the same base-lines as are used in defining the limits of the territorial sea of coastal States.

2. Nothing in this Treaty shall be interpreted as prejudicing the position of any State Party with respect to rights or claims which such State Party may assert, or with respect to recognition or non-recognition of rights or claims asserted by any other State,

## ARTICLE II

1. For purposes of this Treaty, the outer limit of the narrow band referred to in Article I shall be measured from baselines drawn in the manner specified in paragraph 2, hereof. The width of the narrow band shall be three (3) miles.

2. Blank (baselines).

3. Nothing in this Treaty shall be interpreted as prejudicing the position of any State Party with respect to rights or claims which such State Party may assert, or with respect to recognition or non-recognition of rights or claims

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relating to the territorial sea  
or other contiguous waters or  
to the sea-bed and the ocean  
floor.

asserted by any other State,  
relating to territorial or  
other contiguous seas or to  
the seabed and ocean floor.

### ARTICLE III

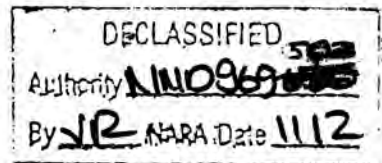
In order to promote the  
objectives and ensure the  
observance of the provisions of  
this Treaty, the States Parties  
to the Treaty shall have the  
right to verify the activities  
of other States Parties to the  
Treaty on the sea-bed and the  
ocean floor and in the subsoil  
thereof beyond the maritime zone,  
as defined in Article II, if  
these activities raise doubts  
concerning the fulfillment of the  
obligations assumed under this  
Treaty, without interfering with  
such activities or otherwise

### ARTICLE III

1. In order to promote the  
objectives and ensure the ob-  
servance of the provisions of  
this Treaty, the Parties to  
the Treaty shall remain free  
to observe activities of other  
States on the seabed and ocean  
floor, without interfering with  
such activities or otherwise  
infringing rights recognized  
under international law in-  
cluding the freedoms of the  
high seas. In the event that  
such observation does not in  
any particular case suffice to  
eliminate questions regarding

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infringing rights recognized under international law, including the freedom of the high seas.

The States Parties to the Treaty undertake to consult and to cooperate with a view to removing doubts concerning the fulfillment of the obligations assumed under this Treaty.

#### ARTICLE IV

Any State Party to the Treaty may propose amendments to this Treaty. Amendments must be approved by a majority of the votes of all the States Parties to the Treaty, including those of all the States Parties to this Treaty possessing nuclear

fulfillment of the provisions of this Treaty, Parties undertake to consult and to cooperate in endeavoring to resolve the questions.

2. At the review conference provided for in Article V, consideration shall be given to whether any additional rights or procedures of verification should be established by amendment to this Treaty.

#### ARTICLE IV

Any State Party to the Treaty may propose amendments to this Treaty. Amendments shall enter into force for each State Party to the Treaty accepting the amendments upon their acceptance by a majority of the States Parties to the

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weapons and shall enter into force for each State Party to the treaty accepting such amendments upon their acceptance by a majority of the States Parties to the treaty, including the States which possess nuclear weapons and are Parties to this Treaty. Thereafter the amendments shall enter into force for any other Party to the Treaty after it has accepted such amendments.

#### ARTICLE V

Each Party to this Treaty shall in exercising its national sovereignty have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized the supreme interest of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the

Treaty and thereafter for each remaining State Party on the date of acceptance by it.

#### ARTICLE VI

Each Party shall in exercising its national sovereignty have the right to withdraw from this Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its Country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the

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extraordinary events it considers to have jeopardized its supreme interests.

extraordinary events it regards as having jeopardized its supreme interests.

#### ARTICLE V

Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized. Such review shall take into account any relevant technological developments. The review conference shall determine in accordance with the views of a majority of those Parties attending whether and when an additional review

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conference shall be convened.

## ARTICLE VI

1. This Treaty shall be open for signature to all States. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and of accession shall be deposited with the Governments of \_\_\_\_\_, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after the deposit of instruments of ratification by twenty two governments, including

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the Governments designated as  
Depositary Governments of this  
Treaty.

4. For States whose instru-  
ments of ratification or acces-  
sion are deposited after the entry  
into force of this Treaty it  
shall enter into force on the  
date of the deposit of their  
instruments of ratification or  
accession.

5. The Depositary Governments  
shall forthwith notify the  
Governments of all States  
signatory and acceding to this  
Treaty of the date of each sig-  
nature, of the date of deposit  
of each instrument of ratifi-  
cation or of accession, of the  
date of the entry into force of  
this Treaty, and of the receipt  
of other notices.

~~CONFIDENTIAL~~

DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
August 6, 2007

DECLASSIFIED  
Authority NND 869076  
By LR NARA Date 1112

~~CONFIDENTIAL~~

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6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

#### ARTICLE VII

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the States signatory and acceding thereto.

In witness whereof the undersigned, being duly authorized thereto, have signed this Treaty.

CONFIDENTIAL

DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
August 6, 2007

~~CONFIDENTIAL~~

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DECLASSIFIED  
Authority NND 969 030  
By SP NARA Date 1112

Done in \_\_\_\_\_ at  
\_\_\_\_\_ this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

~~CONFIDENTIAL~~